

**Representative Brad L. Dee** proposes the following substitute bill:

**REGULATION OF LOBBYISTS AND GIFTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Becker**

Senate Sponsor: Patricia W. Jones

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**LONG TITLE**

**General Description:**

This bill modifies the Lobbyist Disclosure and Regulation Act and a reporting section of the Election Code.

**Highlighted Provisions:**

This bill:

- ▶ provides and modifies definitions;
- ▶ removes reporting exemptions from certain travel, lodging, and meal expenses;
- ▶ clarifies that public officials, elected officials of local governments, and certain state employees are subject to lobbyist disclosure regulations;
- ▶ requires that financial expenditure reports be filed quarterly;
- ▶ requires that certain details be reported on some expenditures of over \$5;
- ▶ provides that single expenses in the amount of \$5 or less are not required to be reported unless they are combined with other expenses;
- ▶ requires a lobbyist to continue to file quarterly expense reports until the lobbyist files a statement that contains a final expense report and notifies the lieutenant governor that the lobbyist is ceasing lobbying activities;
- ▶ establishes conflict of interest standards for lobbyists; and
- ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **36-11-102**, as last amended by Chapter 13, Laws of Utah 1998

33 **36-11-201**, as last amended by Chapter 27, Laws of Utah 2003

34 ENACTS:

35 **36-11-306**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **36-11-102** is amended to read:

39 **36-11-102. Definitions.**

40 As used in this chapter:

41 (1) "Aggregate daily expenditures" means the total expenditures made within a 24-hour  
42 period.

43 (2) "Executive action" means:

44 (a) nominations and appointments by the governor;

45 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any  
46 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

47 (c) agency ratemaking proceedings.

48 (3) (a) "Expenditure" means any of the items listed in this subsection when given to or  
49 for the benefit of a public official or his immediate family:

50 (i) a purchase, payment, distribution, loan, gift, advance, deposit, subscription,  
51 forbearance, services, or goods, unless consideration of equal or greater value is received; and

52 (ii) a contract, promise, or agreement, whether or not legally enforceable, to provide  
53 any of the items listed in Subsection (3)(a)(i).

54 (b) "Expenditure" does not mean:

55 (i) a commercially reasonable loan made in the ordinary course of business;

56 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,

57 ~~[Corrupt Practices in Elections]~~ Campaign and Financial Reporting Requirements;

58 (iii) printed informational material;

59 (iv) a devise or inheritance;

60 (v) any item listed in Subsection (3)(a) if given by a relative;

61 (vi) a modest item of food or refreshment such as a beverage or pastry offered other  
62 than as part of a meal, the value of which does not exceed \$5;

63 (vii) a greeting card or other item of little intrinsic value that is intended solely for  
64 presentation; or

65 (viii) plaques, commendations, or awards~~[, or]~~.

66 ~~[(ix) reimbursement of reasonable expenses for or providing travel, lodging, or meals  
67 to a public official when:]~~

68 ~~[(A) those expenses are directly related to the public official's attendance and  
69 participation in a regularly scheduled meeting of an organization, association, or group; and]~~

70 ~~[(B) that organization, association, or group pays or provides those expenses:]~~

71 (4) (a) "Government officer" means:

72 (i) an individual elected to a position in state or local government, when acting within  
73 his official capacity; or

74 (ii) an individual appointed to or employed in a full-time position by state or local  
75 government, when acting within the scope of his employment.

76 (b) "Government officer" does not mean a member of the legislative branch of state  
77 government.

78 (5) "Immediate family" means a spouse, a child residing in the household, or an  
79 individual claimed as a dependent for tax purposes.

80 (6) "Interested person" means an individual defined in Subsections (9)(b)(ii) and  
81 ~~[(viii)]~~ (vii).

82 (7) "Legislative action" means:

83 (a) bills, resolutions, amendments, nominations, and other matters pending or proposed  
84 in either house of the Legislature or its committees or requested by a legislator; and

85 (b) the action of the governor in approving or vetoing legislation.

86 (8) "Lobbying" means communicating with a public official for the purpose of  
87 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

88 (9) (a) "Lobbyist" means:  
89 (i) an individual who is employed by a principal; or  
90 (ii) an individual who contracts for economic consideration, other than reimbursement  
91 for reasonable travel expenses, with a principal to lobby a public official.

92 (b) "Lobbyist" does not include:  
93 [~~(i) a public official while acting in his official capacity on matters pertaining to his~~  
94 ~~office or a state employee while acting within the scope of his employment;~~]

95 (i) a member or employee of the legislative branch of government;  
96 (ii) any person appearing at, or providing written comments to, a hearing conducted in  
97 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act or Title 63,  
98 Chapter 46b, Administrative Procedures Act;

99 (iii) any person participating on or appearing before an advisory or study task force,  
100 commission, board, or committee, constituted by the Legislature or any agency or department  
101 of state government, except legislative standing, appropriation, or interim committees;

102 (iv) a representative of a political party;

103 (v) an individual representing a bona fide church solely for the purpose of protecting  
104 the right to practice the religious doctrines of the church unless the individual or church makes  
105 an expenditure that confers a benefit on a public official;

106 (vi) a newspaper, television station or network, radio station or network, periodical of  
107 general circulation, or book publisher for the purpose of publishing news items, editorials,  
108 other comments, or paid advertisements that directly or indirectly urge legislative or executive  
109 action; or

110 [~~(vii) an elected official of a local government while acting within the scope of his~~  
111 ~~official capacity on matters pertaining to his office or an employee of a local government while~~  
112 ~~acting within the scope of his employment; or]~~

113 [~~(viii)~~ (vii) an individual who appears on his own behalf before a committee of the  
114 Legislature or an executive branch agency solely for the purpose of testifying in support of or  
115 in opposition to legislative or executive action.

116 (10) "Person" includes individuals, bodies politic and corporate, partnerships,  
117 associations, and companies.

118 (11) "Principal" means a person who employs [~~a lobbyist~~] an individual to perform

119 lobbying either as an employee or as an independent contractor.

120 (12) "Public official" means:

121 (a) a member of the Legislature;

122 (b) an individual elected to a position in the executive branch; or

123 (c) an individual appointed to or employed in the executive or legislative branch if that  
124 individual:

125 (i) occupies a policymaking position or makes purchasing or contracting decisions;

126 (ii) drafts legislation or makes rules;

127 (iii) determines rates or fees; or

128 (iv) makes adjudicative decisions.

129 (13) "Quarterly reporting period" means the three-month period covered by each  
130 financial report required under Subsection 36-11-201(2)(a)(i).

131 [~~(13)~~] (14) "Related person" means any person, or agent or employee of a person, who  
132 knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

133 [~~(14)~~] (15) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,  
134 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or  
135 spouse of any of these individuals.

136 Section 2. Section **36-11-201** is amended to read:

137 **36-11-201. Lobbyist, principal, and government officer financial reporting**  
138 **requirements -- Prohibition for related person to make expenditures.**

139 (1) As used in this section, "public official type" means a notation to identify whether  
140 the public official is:

141 (a) a member of the Legislature;

142 (b) an individual elected to a position in the executive branch;

143 (c) an individual appointed to or employed in a position in the legislative branch who  
144 meets the definition of public official in Section 36-11-102; or

145 (d) an individual appointed to or employed in a position in the executive branch who  
146 meets the definition of public official in Section 36-11-102.

147 (2) (a) (i) Each lobbyist, principal, and government officer that makes an expenditure,  
148 as defined in Section 36-11-102, during any of the following quarterly reporting periods shall  
149 file [~~an annual~~] a quarterly financial report with the lieutenant governor on [~~January 10~~] of each

150 ~~year or~~ the following dates:

151 (A) April 10, for the period of January 1 through March 31;

152 (B) July 10, for the period of April 1 through June 30;

153 (C) October 10, for the period of July 1 through September 30; and

154 (D) January 10, for the period of October 1 through December 31 of the previous year.

155 (ii) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday,

156 the report shall be considered to be due on the next succeeding business day [if January 10 falls  
157 on a Saturday, Sunday, or legal holiday].

158 (iii) The report shall be considered timely filed if postmarked on its due date.

159 ~~[(ii)]~~ (iv) The report shall disclose expenditures made to benefit public officials or  
160 members of their immediate families as provided in this section.

161 ~~[(iii) If]~~ (v) (A) Notwithstanding Subsection (2)(a)(i), a lobbyist shall file a quarterly  
162 financial report whether or not the lobbyist has made [no expenditures since the last  
163 expenditure reported on the last report filed;] an expenditure during the quarterly reporting  
164 period.

165 (B) If the lobbyist has made no expenditures during the quarterly reporting period, the  
166 lobbyist shall file a quarterly financial report listing the amount of expenditures as "none."

167 (C) The report shall be filed in accordance with the dates specified under Subsections  
168 (2)(a)(i) and (ii).

169 (b) The [January 10] quarterly financial report shall contain:

170 (i) (A) the total amount of expenditures made to benefit public officials during the last  
171 [calendar year] quarterly reporting period; and

172 (B) the total amount of expenditures made to benefit public officials by public official  
173 type during the last [calendar year] quarterly reporting period;

174 (ii) (A) the total travel expenditures that the lobbyist, principal, or government officer  
175 made to benefit public officials and their immediate families during the [last calendar year]  
176 quarterly reporting period; and

177 (B) the total travel expenditures that the lobbyist, principal, or government officer  
178 made to benefit public officials and their immediate families, by public official type, during the  
179 last [calendar year] quarterly reporting period; and

180 (C) a travel expenditure statement that:

- 181 (I) describes the destination of each trip and its purpose;
- 182 (II) identifies the total amount of expenditures made to benefit each public official and  
183 members of the public official's immediate family for each trip;
- 184 (III) names all individuals that took each trip;
- 185 (IV) identifies the public official type to which each public official belongs;
- 186 (V) provides the name and address of the organization that sponsored each trip; and
- 187 (VI) identifies specific expenditures for food, lodging, gifts, and sidetrips;
- 188 (iii) except as specified under Subsection (2)(b)(iv) regarding expenditures for food or  
189 beverage, for each aggregate daily [expenditures] expenditure made during the quarterly  
190 reporting period to benefit a public [officials or members of their] official or a member of the  
191 public official's immediate [families] family in an amount exceeding \$5 per person, that [are] is  
192 not otherwise reportable under Subsection (2)(b)(ii):
- 193 [~~(A)~~ when the amount does not exceed \$50 per person:]
- 194 [~~(I)~~ the date of the expenditure;]
- 195 [~~(II)~~ the purpose of the expenditure;]
- 196 [~~(III)~~ the public official type to which each public official belongs; and]
- 197 [~~(IV)~~ the total monetary worth of the benefit conferred on the public officials or  
198 members of their immediate families;]
- 199 [~~(B)~~ when the amount exceeds \$50 per person:]
- 200 [~~(I)~~ (A) the date, location, and purpose of the event, activity, or expenditure;
- 201 [~~(II)~~ (B) the name of the public official or member of the public official's immediate  
202 family who attended the event or activity or received the benefit of the expenditure;
- 203 [~~(III)~~ (C) the public official type to which each public official belongs; and
- 204 [~~(IV)~~ (D) the total monetary worth of the benefit conferred on the public official or  
205 member of the public official's immediate family by the lobbyist, principal, or government  
206 officer filing the financial report;
- 207 (iv) (A) for each aggregate daily expenditure for food or beverage made during the  
208 quarterly reporting period to benefit a public official or a member of a public official's  
209 immediate family in an amount exceeding \$5 per person, but not exceeding \$50 per person:
- 210 (I) the date of the expenditure;
- 211 (II) the purpose of the expenditure;

212 (III) the public official type to which each public official belongs; and  
213 (IV) the total monetary worth of the benefit conferred on the public official or member  
214 of the public official's immediate family; and

215 (B) each aggregate daily expenditure for food or beverage that exceeds \$50 per person  
216 shall be reported under Subsection (2)(b)(iii);

217 [~~(iv)~~] (v) a list of each public official who was employed by the lobbyist, principal, or  
218 government officer or who performed work as an independent contractor for the lobbyist,  
219 principal, or government officer during the last year that details the nature of the employment  
220 or contract;

221 [~~(v)~~] (vi) each bill or resolution by number and short title on behalf of which the  
222 lobbyist, principal, or government officer made an expenditure to a public official for which a  
223 report is required by this section, if any;

224 [~~(vi)~~] (vii) a description of each executive action on behalf of which the lobbyist,  
225 principal, or government officer made an expenditure to a public official for which a report is  
226 required by this section, if any; and

227 [~~(vii)~~] (viii) the general purposes, interests, and nature of the organization or  
228 organizations that the lobbyist, principal, or government officer filing the report represents.

229 (c) In reporting expenditures under this section for events to which all legislators are  
230 invited, each lobbyist, principal, and government officer:

231 (i) may not divide the cost of the event by the number of legislators who actually attend  
232 the event and report that cost as an expenditure made to those legislators;

233 (ii) shall divide the total cost by the total number of Utah legislators and others invited  
234 to the event and report that quotient as the amount expended for each legislator who actually  
235 attended the event; and

236 (iii) may not report any expenditure as made to a legislator who did not attend the  
237 event.

238 (3) (a) As used in this Subsection (3):

239 (i) "Lobbyist group" means two or more lobbyists, principals, government officers,  
240 [~~and~~] or any combination of lobbyists, principals, and government officers who each contribute  
241 a portion of an expenditure made to benefit a public official or member of his immediate  
242 family.

243 (ii) "Multiclient lobbyist" means a single lobbyist, principal, or government officer  
244 who represents two or more clients and divides the aggregate daily expenditure made to benefit  
245 a public official or member of his immediate family between two or more of those clients.

246 (b) When a lobbyist group combines to make aggregate daily expenditures to benefit  
247 public officials or members of their immediate families, and the total aggregate daily  
248 expenditure of the lobbyist group exceeds [~~\$50~~] \$5 per person, each member of the lobbyist  
249 group shall disclose on the reports required by this section:

250 (i) the date, location, and purpose of the event, activity, or expenditure;

251 (ii) the name of the public official or member of the public official's immediate family  
252 who attended the event or activity or received the benefit of the expenditure;

253 (iii) the public official type to which each public official belongs;

254 (iv) the total monetary worth of the benefit conferred on the public official or member  
255 of the public official's immediate family by the lobbyist group [~~and~~];

256 (v) the total monetary worth of the benefit conferred upon the public official or  
257 member of the public official's immediate family by the lobbyist, principal, or government  
258 officer filing the financial report;

259 [~~(vi)~~] (vi) each bill or resolution by number and short title on behalf of which the  
260 lobbyist, principal, or government officer made an expenditure to a public official for which a  
261 report is required by this section, if any;

262 [~~(vii)~~] (vii) a description of each executive action on behalf of which the lobbyist,  
263 principal, or government officer made an expenditure to a public official for which a report is  
264 required by this section, if any; and

265 [~~(viii)~~] (viii) the general purposes, interests, and nature of the organization or  
266 organizations that the lobbyist, principal, or government officer filing the report represents.

267 (c) When a multiclient lobbyist makes aggregate daily expenditures to benefit public  
268 officials or members of their immediate families, and the sum of the total aggregate daily  
269 expenditure for all of the lobbyist's clients exceeds [~~\$50~~] \$5 for a public official or family  
270 member, the multiclient lobbyist shall, for each client, disclose on the reports required by this  
271 section:

272 (i) the date, location, and purpose of the event, activity, or expenditure;

273 (ii) the name of the public official or member of the public official's immediate family

274 who attended the event or activity or received the benefit of the expenditure;

275 (iii) the public official type to which each public official belongs;

276 (iv) the total monetary worth of the benefit conferred on the public official or member  
277 of the public official's immediate family by all clients [~~and~~];

278 (v) the total monetary worth of the benefit conferred on the public official or member  
279 of the public official's immediate family by the client upon whose behalf the report is filed;

280 [~~(v)~~] (vi) each bill or resolution by number and short title on behalf of which the  
281 lobbyist, principal, or government officer made an expenditure to a public official for which a  
282 report is required by this section, if any;

283 [~~(vi)~~] (vii) a description of each executive action on behalf of which the lobbyist,  
284 principal, or government officer made an expenditure to a public official for which a report is  
285 required by this section, if any; and

286 [~~(vii)~~] (viii) the general purposes, interests, and nature of the organization or  
287 organizations that the lobbyist, principal, or government officer filing the report represents.

288 (4) A related person may not, while assisting a lobbyist, principal, or government  
289 officer in lobbying, make an expenditure that benefits a public official or member of the public  
290 official's immediate family under circumstances which would otherwise fall within the  
291 disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal,  
292 or government officer.

293 [~~(5) (a) Each lobbyist, principal, and government officer who makes expenditures~~  
294 ~~totaling \$50 or more to benefit public officials or members of their immediate families since~~  
295 ~~the date of the last financial report filed shall file a financial report with the lieutenant governor~~  
296 ~~on.~~]

297 [~~(i) the date ten days after the last day of each annual general session;~~]

298 [~~(ii) the date seven days before a regular general election; and~~]

299 [~~(iii) the date seven days after the end of a special session or veto override session.~~]

300 [~~(b) (i) If any date specified in this Subsection (5) falls on a Saturday, Sunday, or legal~~  
301 ~~holiday, the report is due on the next business day or on the next succeeding business day, if~~  
302 ~~the due date falls on a Saturday, Sunday, or legal holiday.~~]

303 [~~(ii) The report shall be considered timely filed if it is postmarked on its due date.~~]

304 [~~(c) Each report shall contain a listing of all expenditures made since the last~~

305 expenditure reported on the last report filed in the form specified in Subsection (2)(b) and,  
306 when applicable, Subsection (3).]

307 [~~(d)~~ In preparing each financial report, all expenditures shall be reported as of five days  
308 before the required filing date of the report.]

309 [(6)] (5) Each quarterly financial report filed by a lobbyist shall contain a certification  
310 that the information provided in the report is true, accurate, and complete to the lobbyist's best  
311 knowledge and belief.

312 [(7)] (6) The lieutenant governor shall:

313 (a) develop preprinted suggested forms for all statements required by this section; and

314 (b) make copies of the forms available to each person who requests them.

315 [(8)] (7) (a) Each lobbyist and principal shall continue to file the quarterly financial  
316 reports required by this section [~~until the lobbyist or principal has filed the report due on the~~  
317 ~~first January 10 that is more than 12 months after the date that the lobbyist surrenders,~~] until  
318 the lobbyist or principal files a statement with the lieutenant governor that:

319 (i) states that the lobbyist or principal is ceasing lobbying activities;

320 (ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's  
321 license;

322 (iii) contains a listing, as required under Section 36-11-201, of all previously  
323 unreported expenditures that have been made through the date of the statement; and

324 (iv) states that the lobbyist or principal will not make any additional expense that is not  
325 disclosed on the statement unless the lobbyist complies with the disclosure and licensing  
326 requirements of this chapter.

327 (b) A lobbyist that fails to renew[;] the lobbyist's license or otherwise ceases to be  
328 licensed shall be required to file quarterly reports until the lobbyist files the statement required  
329 by Subsection (7)(a).

330 Section 3. Section **36-11-306** is enacted to read:

331 **36-11-306. Conflicts of interest.**

332 (1) As used in this section, "conflict of interest" means a circumstance where:

333 (a) the representation of one principal or client will be directly adverse to another  
334 principal or client; or

335 (b) there is a significant risk that the representation of one or more principals or clients

336 will be materially limited by the lobbyist's responsibilities to:

337 (i) another principal or client;

338 (ii) a former principal or client;

339 (iii) a third person; or

340 (iv) a personal interest of the lobbyist.

341 (2) Except as provided in Subsection (3), a lobbyist may not represent a principal or  
342 client if the representation involves a conflict of interest.

343 (3) Notwithstanding the existence of a conflict of interest, a lobbyist may represent a  
344 principal or client if:

345 (a) the lobbyist reasonably believes that the lobbyist will be able to provide competent  
346 and diligent representation to each principal or client;

347 (b) the representation is not otherwise prohibited by law;

348 (c) the representation does not require the lobbyist to assert a position on behalf of one  
349 principal or client that is opposed to the position of another principal or client represented by  
350 the lobbyist involving the same legislative issue; and

351 (d) the lobbyist notifies the affected principal or client of the potential conflict and each  
352 affected principal or client gives informed consent to the conflict of interest in writing.

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**H.B. 178 1st Sub. (Buff) - Regulation of Lobbyists and Gifts**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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